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City looks to tap tourists for revenue

By **ERICKA SCHENCK SMITH**
Of The Gazette Staff

Tourists dropped \$211 million into the Billings economy in 1998, but they didn't pay a cent in local taxes to help pay for the roads they drove, the sidewalks they strolled or the parks they lolled about in. They didn't pay a cent in local taxes to help pay for the police officers and firefighters who protected them.



Mayor Chuck Tooley and City Administrator Dennis Taylor say the city needs money, and they want tourists to pay up.


"The city is now operating in a very austere fashion," Tooley said. "If we don't get additional revenues, we're going to have to make drastic cuts."

In a City Council work session July 17, Taylor presented a report on lodging taxes. He said projected shortfalls of \$2.2 million in the next several years mean that the city needs to come up with more creative approaches to raising money than simply increasing property taxes.

One way to raise that money, Taylor said, would be to adopt a local bed tax or, perhaps, a more broad form of local sales tax – both of which would be paid in part by

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tourists. But those taxes, known as local-option taxes, are illegal under current state law, and the Montana Legislature has a long history of looking askance at them.

Change may be afoot

In 1999, the Montana League of Cities and Towns proposed legislation that would have allowed any city or county to adopt, by a vote of the people, a tax on luxury items. Luxury items include hotel rooms, jewelry and restaurant meals – things tourists tend to buy. That legislation passed the Montana Senate, but died in the House after a 43-to-57 vote.

"We've been trying to get local-option taxes since 1972, and this is the closest we got," Taylor said.

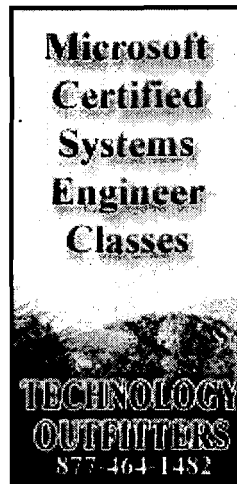
Alec Hansen, executive director of the Montana League of Cities and Towns, said he plans to push for a similar bill in 2001.

"That type of bill has a good probability of passing in the next Legislature," said Sen. Bill Glaser, R-Huntley. Glaser, a member of the Senate Taxation Committee, voted for the 1999 bill.

But, he said, the bill would fail unless it required voter approval and contained a provision for countywide distribution of some of the money. Requiring that some money go to the county would ensure that rural people would benefit from paying taxes to the town where they shop, he said.

Rep. Bob Story, R-Park City, a member of the House Taxation Committee, said the rural-urban issue kept him from supporting local-option taxes in the past, but he did vote for the 1999 bill.

"It's just hard finding a good solution," he said. "It's just frustrating that, with tourists, you have an opportunity to collect some revenue, but we just don't have a mechanism."



Love the bed tax

Perhaps the most tourist-specific local-option tax would be a bed tax. But one Billings hotel manager said he worries that local-option bed taxes could drive big conventions and tour groups away from Billings and down the road to Bozeman or another Montana city.

"If we increased the local bed tax ... it would put Billings at an unfair advantage in bidding for conventions," Rick Jones, general manager of the Quality Inn Homestead Park, said. "We have a lot of tours that just come through the area, and one of the things they ask about is tax. If Billings is going to add a couple extra percent on the tax, it's going to affect where they'll go."

"We're not going to chase people away, because we're Billings," Tooley said. "We're the brightest star in the Big Sky. It's a very incidental thing to the visitor to pay a hotel-motel tax."

Jones did concede that, for many out-of-state visitors to Billings, the current, state-imposed bed tax of 4 percent "is nothing."

But Jones and Doug Kirby, owner of the Cherry Tree Inn, said a tax targeting the hotel industry would be unfair. They also said that if the city wanted to tax tourists, then the tax should also cover restaurants and retail stores, where tourists spend more money.

"Looking to the hotels to bail out the city of Billings is on the line of ludicrous," Jones said. "A citywide overall resort tax would be a much fairer option."

But what Jones and Kirby would really like to see is a state sales tax with provisions for some of the money to be returned to city governments, they said. A statewide tax

would mean that all cities would have the same tax rate and would not have to compete for visitors based on taxes.

Kirby said he was concerned that, if the city were allowed to adopt local-option taxes, the money wouldn't be well-managed. The city could raise the tax whenever it needed more money, rather than using the money efficiently, he said.

"We are not extravagant in the way we provide services," Tooley said, citing several examples of the city's efficient use of money, including new garbage trucks that need only one operator.

And Taylor said the city should not have to look to the state every time it needs money. The city and its people should have the authority to decide how to pay for their city services, he said.

Already legal in some cities

Luxury taxes are already legal for a few small, tourism-dependent towns in Montana that have been designated "resort communities." Among those is Whitefish, which in 1995 successfully lobbied the Legislature to raise the population cap for resort communities from 2,500 to 5,500. The 1999 bill proposed by the Montana League of Cities and Towns would have dropped the cap altogether.

Since the people of Whitefish voted in a 2 percent resort tax in November 1995, the city – once dubbed the "pothole capital of the world" by a local radio personality – has made vast improvements to its city streets, Mayor Andy Feury said. Although several merchants initially grumbled about the tax, Feury said compliance has been high, and people are satisfied with the results.

"It's a success probably beyond even what we had hoped for," Feury said. "The community is certainly behind it because they've seen the rubber hit the road."

Feury said the tax would bring in almost \$1 million this year.

Red Lodge adopted a 3 percent resort tax in 1997. The tax should bring in \$400,000 this year, Mayor Brian Roat said. That money will go toward property tax relief, road construction, water and sewer system improvements and work on the city's parks.

But Roat said he is not entirely happy with the tax, which he said is difficult to enforce and has driven customers away from some local businesses to shop in towns without the tax.

"The only thing that's going to be good is a statewide sales tax with money put back into the communities," Roat said. "I don't advocate that each community has its own local-option tax. That's not good. Having a tax here and a tax there in Montana is not a good thing. ... I hope nobody else gets into this dog-and-pony show."

Both Feury and Roat said many people in their communities will get more money back in property tax relief each year than they paid in for the luxury tax.

Another route

Taylor said he supports the efforts of the Montana League of Cities and Towns to expand the resort tax, but he would prefer that Billings take another route to local-option taxes. Billings, he said, should exercise its powers of self-government.

Billings became a self-governing entity (what Taylor calls a "home-rule power") with the adoption of its city charter in 1977. This means that, unless the Legislature specifically prohibits the city from doing something, the city has the power to come up with its own rules and ways of doing things.

One of the things the Legislature has

specifically prohibited is "the power to authorize a tax on income or the sale of goods or services." According to a 1983 Montana Supreme Court ruling, that prohibition includes bed taxes. Taylor said he would like to change that, and that the next legislative session is a big opportunity for Billings.

"I think our chances are better than they've ever been to give authority to home-rule powers," Taylor said.

Taylor said he would like the Legislature to consider a simple rewording of the law. He said he would prefer to have the entire paragraph removed, but cutting out "the sale of goods or services" or changing "the sale of goods or services" to "a general sales tax" would work, too, to a lesser degree.

By changing the law in this way, rather than changing the law on resort taxes, Taylor said the city would have greater flexibility in deciding how to implement local-option taxes. The Legislature could not dictate how the city would collect the taxes, or how the money would be used, he said.

"Whatever gives the people of Billings the most flexibility is better for Billings," Tooley said.

Hansen agreed: "The people in Billings should have the right to support and determine what kind of taxes they'd like to pay to support their local government. They're smart enough to do that."

Both Tooley and Taylor said the Legislature and local governments need to cooperate in coming up with good solutions to the problem of funding local governments. Tooley said Billings-area legislators, especially, should understand that they are serving the same people the city serves.

Rep. Bob Raney, D-Livingston, cautioned that cities that adopted local-option taxes

could lose some business to cities without the tax. But, he said, "every community should be given these options."

"I think the time's better than ever (for local-option taxes) because state government is caught in this bind of having to fund local government," Raney said.

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